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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,842	08/04/2003	Shinji Hayashi	086142-0573	5064

22428 7590 10/13/2005

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EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/632,842	Applicant(s) HAYASHI, SHINJI	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8-14 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

h/c

DETAILED ACTION

This Office Action is responsive to the amendment filed July 28, 2005. Claim 5 has been canceled and new claims 11-14 have been added; therefore, claims 1-4 and 6-14 are pending.

Drawings

1. The drawings were received on July 28, 2005. These drawings are approved.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 6, 8, 9, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Labrie et al. (5,941,558).

Labrie et al. discloses an airbag apparatus comprising: a container (20) having a pair of opposing sides (see Figure 2); an airbag (24); wherein one of the sides includes a locking part (see lower side with flanged fixed to instrument panel 12 by a fastener) and the other side includes a fixing part (64) for connected to the instrument panel (wall section 50); wherein the fixing part includes two members that extend substantially in parallel with each other (fixing part 64 includes members 34 and 36 which are parallel to each other; see Figures 2 and 3); wherein the fixing part is configured to receive a wall section (54) that extends from a rear surface of the

instrument panel between the two members; and wherein the wall section includes a leg piece that extends in a direction substantially parallel to the instrument panel and away from the container (see final extension end 54 which extends away from 56 in Figure 2).

The two members extend substantially perpendicular to the sides and away from the container (see Figure 2); the two members are connected together to form a clamp. The leg piece is connected to the members by a bolt (62). As seen in Figure 2, the leg portion is *substantially* parallel to the instrument panel (see especially lower portion of the instrument panel).

4. Claims 1-4, 6, 8, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis, Jr. et al. (6,076,851).

Davis, Jr. et al. discloses an airbag apparatus comprising: a container (see 56; Figure 3) having a pair of opposing sides; an airbag (60); wherein one of the sides includes a locking part (62) and the other side includes a fixing part (62) for connected to the instrument panel (52); wherein the fixing part includes two members that extend substantially in parallel with each other (see parallel sides of 62); wherein the fixing part is configured to receive a wall section (54) that extends from a rear surface of the instrument panel between the two members; and wherein the wall section includes a leg piece (piece extending into 62) that extends in a direction substantially parallel to the instrument panel and away from the container. It is noted that sides 62 can be considered both a “locking part” (as it locks the panel) and a “fixing part” (as the panel is fixed to the module).

The two members extend substantially perpendicular to the sides and away from the container; the members form a clamp (see Figure 3). As seen in Figure 3, the locking part 62 is hook shaped.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis, Jr. et al. in view of JP 2001322523.

Davis, Jr. et al. is discussed above and fails to show the leg piece connected to the members by at least one bolt.

JP 2001322523 teaches an airbag apparatus with a container connected to the instrument panel with the use of a bolt (10a; see Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Davis, Jr. et al. to include a bolt to connect the leg piece to the members in order to better secure the airbag apparatus to the vehicle.

Allowable Subject Matter

7. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 7/28/2005 have been fully considered but they are not persuasive.

On page 14, Applicant argues that Labrie does not show a leg piece that extends "in a direction ... away from the container." However as discussed above, the wall section 50 of Labrie includes a leg piece 54 that does extend away from the container 20. As seen in Figure 2, wall section 50 first extends away from the instrument panel, towards and into the U-shaped bend of reaction plate 37, and then out and away from the bend. The portion 54 (the portion where pointer "54" points to in Figure 2) extends away from the container.

On pages 15-16, Applicant discusses Labrie regarding new claim 11. Applicant argues that the two members are not parallel to the instrument panel. First, it is noted that the claim recites "substantially parallel to the instrument panel" and "substantially" is a broad term. --In re Nehrenberg (CCPA) 126 USPQ 383. Secondly, the two members are substantially parallel to the lower portion of the instrument panel, especially in the location of pointer "38".

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', is written over a horizontal line.

David Dunn
Primary Examiner
Art Unit 3616